S.B. CIVIL WRIT PETITION NO.5418/2003.
Sanjeev Choudhary Vs. State & Ors.

Date of Order :: 18th July 2007.

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr. Anil Kaushik, for the petitioner.
Mr. Rameshwar Dave, Dy.G.A., for the respondents.

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In this writ petition, the petitioner has raised the grievance in the matter of appointment of Physical Training Instructor Gr.III against the vacancies advertised by the Director, Secondary Education, Rajasthan in the year 2003-2004 that the persons standing lower in merit have been offered appointment, but he has been denied such appointment in a wholly illegal manner.

The petitioner has contended that he possesses requisite qualification for the said post and, therefore, applied in pursuance of the advertisement in Other Backward Class category to the District Education Officer, Bhilwara on 08.08.2003; that the respondent No.3 published a list of candidates as per the merit and about 550 candidates were called for interview on 03.09.2003; however, the petitioner having total 78.33% marks on the scale of marks as stated by the respondents, was not called for interview though the respondent No.5 having 78.24% marks was called for such interview. The petitioner has further submitted that he made a representation on

13.08.2003 raising his grievance and the respondents proceeded to issue a list on 28.08.2003 stating the action taken on various representations; but despite alleging disposal of the representation of the petitioner, he was not called for interview that was scheduled to be held on 03.09.2003; and that the petitioner made further representation on 01.09.2003 but without any result.

The petitioner has stated that the respondent No.4 issued an office order on 05.09.2003 offering appointment to 64 candidates but the name of the petitioner did not figure in such list whereas the respondent No.5 who figured in the list at Sl.No.62 had 78.24% marks, lesser than 78.33% marks of the petitioner.

The petitioner has put calculation of his marks with reference to the requirements of the respondents in the manner that he had 78.33 marks with the following break-up:-

Secondary	10.36
Sr. Secondary	19.32
B.P.Ed.	19.65
National Sports Certificate	15.00
NCC ‘C’ Certificate	04.00
Bonafide resident of Rajasthan	10.00

The respondents have submitted in their reply that the petitioner secured 63.33% marks and not 78.33% as alleged. It has been pointed out in regard to the sports certificate produced by the petitioner that according to the guidelines dated

31.07.2003 (Annex.R/1), such certificates should be verified by the head of the institution where the student was studying while participating in the tournament concerned. However, according to the respondents, the certificate produced by the petitioner has not been verified by the head of the institution where he was studying while participating in the tournament; and therefore, bonus marks were not awarded to the petitioner in relation to the said certificate.

It is apparent that the root cause of discrepancy in the marks calculated by the petitioner and those assigned by the respondents is because of denial of 15% bonus marks for the sports certificate. In the guidelines Annexure-R/1, while providing for different bonus marks for different sports and extra-curricular activities, in respect of a certificate stating participation in a National Level tournament in sports, 15 bonus marks have been provided; but the requirement has been stated in no uncertain terms that the certificate must be signed by the head of the institution where the candidate was studying at the time of participation in the tournament and ought to be counter-signed by the competent authority as stated in the said guidelines. The respondents have clearly given out,-

> "समस्त खेलकूद प्रमाण-पत्रों के लिए यह आवश्यक होगा कि अभ्यार्थी द्वारा जिस संस्था में अध्ययनरत रहते हुए

प्रतियोगिता में भाग लिया गया है उस संस्था प्रधान के हस्ताक्षर मय मोहर के प्रमाणित होना चाहिये तथा सक्षम अधिकारी द्वारा प्रति हस्ताक्षरित होने की स्थिति में ही मान्य होंगे । अप्रमाणित एवं अप्रतिहस्ताक्षरित प्रमाण - पत्र किसी भी स्थिति में मान्य नहीं होंगे ।"

The petitioner has sought such 15 bonus marks on the basis of the certificate of proficiency (Annexure-4) as issued by the Board of Sports of Jai Narain Vyas University, Jodhpur stating him to be a member of university team in the event of “All-India Inter-University Cross-country Race”. The certificate has been signed by the President and Secretary of such Board of Sports. Obviously, the certificate has not been signed by the head of the institution nor is counter-signed by the competent authority stated in the guidelines. In these circumstances, the respondents cannot be faulted in not giving credence to the certificate aforesaid. Once the certificate is removed out of consideration, the component of 15% bonus marks is lost; and obviously results in the petitioner being put at 63.33% marks. The respondents have pointed out that the last candidate who was called for interview in OBC category had secured 78.19% marks. In this view of the matter, the petitioner does not appear entitled to any relief. This is apart from the fact that it appears questionable if the said certificate Annexure-4 could at all be said

to be a certificate fulfilling all the requirements of the certificate of participation in a National Level tournament for the purpose of 15% bonus marks as stated in the guidelines Annexure-R/1.

This Court is satisfied that the respondents have not committed any illegality in offering appointment to the candidates standing higher in merit than the petitioner does.

The writ petition fails and is, therefore, dismissed.

(DINESH MAHESHWARI), J.

Mohan/